



Jim Lamoureux
Senior Attorney
Law and Government Affairs
Southern Region
jlamoureux@att.com

NOV 27 AM 11 37

Promenade 1
1200 Peachtree Street N.E.
Atlanta, GA 30309
404 810 4196
FAX: 404 810 5901

November 27, 2000

By Hand

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243



Re: General Docket Addressing Rural Universal Service
Docket No. 00-00523

Dear Mr. Waddell:

Enclosed for filing in the above-captioned proceeding are an original and thirteen copies of the Rebuttal Testimony of Richard Guepe filed on behalf of AT&T.

If you have questions, please call me.

Sincerely,


Jim Lamoureux 

Encls.

POSTED
11-27-00

1 **AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC.**

2 **REBUTTAL TESTIMONY OF RICHARD GUEPE**

3 **BEFORE THE TENNESSEE REGULATORY AUTHORITY**

4 **DOCKET NO. 00-00523**

5 **November 27, 2000**

6
7 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND TITLE.**

8 A. My name is Richard Guepe and my business address is 1200 Peachtree Street, N.E., Atlanta,
9 Georgia 30309. I am employed by AT&T as a District Manager in the Law & Government
10 Affairs organization.

11
12 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

13 A. The purpose of my testimony is to respond to comments of Mr. Steven Watkins made on
14 behalf of the Rural Independent Coalition. The concerns of the Rural Coalition are focused
15 on events that have an undetermined outcome, an unquantified impact, and under Tennessee
16 statute are not related to maintaining universal service unless and until local markets are
17 opened to competition. At this time it is not appropriate or necessary to establish an intrastate
18 rural universal service high cost fund. The Coalition plan is merely a rate rebalancing
19 proposal that is attempting to avoid any investigation of earnings or need for rebalancing.
20 Under the guise of universal service the Rural Coalition is attempting to bypass the rate case
21 process and without any documentation of need, shift some cost recovery to a state universal
22 service fund.

1 **Q. WHY IS THE CONCEPT OF LOCAL MARKETS OPENED TO COMPETITION**
2 **RELEVANT?**

3 A. The Tennessee statute that enables the TRA to implement a state universal service fund
4 establishes a direct link between the implementation of a fund and local competition. TCA
5 §65-5-207(a) states:

6 Universal Service, consisting of residential basic local exchange telephone service at
7 affordable rates and carrier-of-last-resort obligations must be maintained *after* the
8 local telecommunications markets are opened to competition. (emphasis added)
9

10 **Q. DOES THE RURAL COALITION ACKNOWLEDGE THIS LINK BETWEEN THE**
11 **IMPLEMENTATION OF A FUND AND COMPETITION?**

12 A. No, the Rural Coalition ignores this connection and the fact that competition must have been
13 enabled, i.e., entrants must possess the means to provide service, otherwise there is no need
14 for high cost support as contemplated by the Act, the FCC's Orders, and Tennessee statute.
15 Where the means for providing local service, such as, facilities, interconnection, operating
16 support systems and unbundled network elements ("UNEs") are not readily available,
17 competition cannot develop and concerns about assuring universal service have no
18 substantive basis. A universal service high cost fund may be necessary in the event
19 competition erodes ILEC revenues, thereby threatening the ability of the ILEC to provide
20 affordable local service. However, existing ILEC revenues clearly allow the provision of
21 affordable local service.

22

23 **Q. ON BEHALF OF THE RURAL COALITION, MR. WATKINS (DIRECT**
24 **TESTIMONY, P. 6) STATES THAT A STATE USF WILL BE REQUIRED TO**

1 **ADDRESS COST RECOVERY SHIFTS AND INTERSTATE CHANGES TO**
2 **REVENUES. DO YOU AGREE?**

3 A. I would agree these may be relevant only insofar as a determination is made that an intrastate
4 universal service fund is required. By Tennessee statute, this can only be after local
5 telecommunications markets are open to competition. The rural carriers' local markets are
6 not open to competition nor is there any threat that local competition is eroding revenues and
7 threatening the availability of affordable local service. The impact of the events listed by Mr.
8 Watkins¹ are not known and, absent local competition, are not directly pertinent to a state
9 universal service fund in Tennessee at this time. These items could impact the rural carriers'
10 earnings, but if this is the case, the TRA should address the issue in context of a general rate
11 case proceeding, when and if such an impact occurs, and not through a universal service case.

12
13 **Q. MR. WATKINS ADVOCATES THE INTRASTATE RURAL UNIVERSAL SERVICE**
14 **FUND SUPPORT ADVANCED TELECOMMUNICATIONS SERVICE (DIRECT, P.**
15 **9). DO YOU AGREE?**

16 A. No. Advanced telecommunications services should not be supported by an intrastate rural
17 universal service high cost fund. Support for advanced services expands the definition of
18 supported services far beyond both state and federal statutory requirements. TCA §65-5-
19 207(a) clearly does not include advanced telecommunications services in the definition of
20 universal service. Section 254(c) of the Telecommunications Act of 1996 instructs the
21 Federal-State Joint Board on Universal Service ("Joint Board") and the FCC to consider

1 certain factors in defining the services supported by federal universal service support
2 mechanisms. Among the factors is the extent to which such telecommunications services
3 "have, through the operation of market choices by customers, been subscribed to by a
4 substantial majority of residential customers." In addition to being beyond the scope of
5 universal service, the inclusion of advanced telecommunications services raises competitive
6 issues, such as, would a cable provider of advanced services be eligible for support; and is
7 potentially anticompetitive as pointed out by SECCA witness Mr. William Barta (Direct
8 Testimony, P. 9).

9
10 **Q. MR. WATKINS ADVOCATES THAT ALL LINES BE SUPPORTED BY THE**
11 **INTRASTATE RURAL UNIVERSAL SERVICE FUND (DIRECT, P.10). DO YOU**
12 **AGREE?**

13 A. I do not agree. The TRA addressed this issue in Docket No. 97-00888 and made the
14 following determination:

15 Consistent with these statutes, the Authority orders the following "core"
16 services to be supported by the intrastate universal service fund: the primary access
17 line consisting of dial tone, touch-tone and usage provided to the premises of a
18 residential customer for the provision of two-way switched voice or data
19 transmission over voice grade facilities, Lifeline, Link-Up Tennessee, access to 911
20 Emergency Services and educational discounts existing on June, 6, 1995.

21 Support for business lines are excluded from the definition since those lines
22 are excluded from the statutory definition in Tenn. Code Ann. § 65-5-207(a) for USF
23 purposes only. Also, intrastate support will only be provided on residential
24 customers' primary (first) line and not additional lines. In establishing criteria for
25 support, Congress stated in the Telecom Act that the FCC should consider the extent
26 to which telecommunications service "have through the operation of market choices
27 by customers, been subscribed to by a substantial majority of residential customers."

¹ Mr. Watkins identifies 1) potential changes to interstate access charges, 2) possible modifications to jurisdictional separations, 3) Rural Task Force recommendations on federal rural USF, and 4) LEC to LEC interconnection terms and conditions.

1 The Authority concludes this is also an appropriate criteria for intrastate universal
2 service.
3
4

5 **Q. IN RESPONSE TO THE QUESTION “IS A STATE USF FOR RURAL AREAS**
6 **NECESSARY TO ADDRESS AFFORDABILITY OF RATES FOR RURAL USERS?”**
7 **MR. WATKINS RESPONDS “YES. THE COALITION MEMBERS CANNOT**
8 **MAINTAIN THE PROVISION OF UNIVERSAL SERVICE INCLUDING**
9 **MAINTAINING AFFORDABLE RATES IN THE ABSENCE OF ADEQUATE COST**
10 **RECOVERY TO SUPPORT THEIR NETWORKS.” (DIRECT, P.12) DO YOU**
11 **AGREE?**

12 **A.** No, a state rural universal service fund is not currently required to maintain affordable rates
13 and no evidence has been presented to demonstrate any member of the Rural Coalition has an
14 inadequate rate of return such that it cannot maintain affordable rates. The Rural Coalition
15 admits local rates are “affordable” today without a rural high cost fund. Rural carriers’ local
16 telecommunications markets are not open to competition, so no state universal service fund
17 under TCA 65-207 is required. There is simply no competitive threat to local revenues that
18 requires a fund. I would agree that the “Coalition members cannot maintain the provision of
19 universal service including maintaining affordable rates in the absence of adequate cost
20 recovery to support their networks.” However, this does not require support from a rural
21 universal service high cost fund. The Coalition has presented no evidence for any individual
22 company that they are not earning an adequate return to provide service or that the earnings
23 of any company are in peril and the company’s ability to provide affordable local service is
24 in jeopardy.

1

2 **Q. MR. WATKINS STATES “THE NEED FOR THE ESTABLISHMENT OF THE NEW**
3 **UNIVERSAL SERVICE MECHANISM IS CLEAR AND IMMEDIATE AND**
4 **SHOULD NOT BE CONTINGENT ON AN INDIVIDUAL COMPANY’S**
5 **EARNINGS.” (DIRECT, P. 21-22) DO YOU AGREE?**

6 **A.** I do not agree with Mr. Watkins position. To begin with, as pointed out in my Direct
7 Testimony and the testimony of other parties² in this case, a universal service fund for areas
8 served by rural carriers is not needed at this time – there is no clear and immediate need. The
9 assertion that a rural universal service fund is immediately required is unsupported by any
10 facts presented in this case. In addition, contrary to Mr. Watkins’s position, the current
11 earnings of the rural carrier should be considered when examining both the need and size of
12 an intrastate rural universal service high cost fund. In the event the TRA determines it is
13 appropriate to develop an intrastate rural universal service high cost fund, the current
14 earnings are a principle factor in whether the rural ILEC has demonstrated a need for
15 universal service high cost support. Mr. Watkins rationalizes that even though earnings may
16 be relevant at some future time, they are not relevant now. This position is not logical.

17

18 **Q. MR. WATKINS ADVOCATES A RURAL CARRIER SHOULD NOT BE REQUIRED**
19 **TO WAIVE THE RURAL EXEMPTION NOR PROVIDE UNBUNDLED NETWORK**
20 **ELEMENTS PRIOR TO RECEIVING FUNDS FROM A STATE USF. (DIRECT, P.**
21 **23-26) DO YOU AGREE?**

² See testimony of SECCA witness Barta, Verizon witness Jones.

1 A. No. The rural exemption, both federal and state, is designed to protect rural carriers from
2 competition and potential economic harm to consumers that the rapid development of
3 competition could initiate. Given that a goal of the 1996 Telecommunications Act is to foster
4 competition in all telecommunications markets, the rural exemption is not intended to be a
5 long-term barrier to competition. The rural Coalition would like to have permanent
6 protection from competition and receive state universal support at the same time. The rural
7 Coalition discusses federal regulations at length attempting to justify its position, but totally
8 ignores Tennessee statutes. Tennessee statutes govern any state universal service fund. The
9 Telecommunications Act of 1996 directs the Federal Communications Commission to set up
10 procedures for a federal universal service fund and it allows states to set up a fund if the
11 states determine it is necessary. The FCC made it very clear that federal law does not require
12 states to implement state universal service funds.³ Tennessee statute provides a “rural
13 exemption” for rural telephone carriers⁴ and also allows, if needed, the implementation of a
14 state universal service fund to maintain affordable basic local exchange service after the local
15 exchange markets are opened to competition⁵. In order for a rural carrier to obtain funds
16 from a state universal service fund, it must open the local market to competition. Opening
17 the local market means waiving any exemption from competition, whether the exemption is
18 from state or federal regulation. This is a prerequisite for potential new entrants to compete.
19 The provision of unbundled network elements is one of the essential means for new entrants
20 to be able to compete. Where the means for providing local service, such as, unbundled

³ Federal Communications Commission, Seventh Report & Order, In the Matter of Federal-State Joint Board on Universal Service and Access Charge Reform, CC Docket No. 96-45, May 28, 1999, para. 45.

⁴ TCA 65-4-201(d)

⁵ TCA §65-5-207

1 network elements, interconnection, and operating support systems are not readily available,
2 there are barriers to entry and competition cannot develop; without which a state universal
3 service fund is not required.

4

5 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

6 **A. Yes.**


NASHVILLE, TENNESSEE

In Re: General Docket Addressing Rural Universal Service

Docket No. 00-00523

CERTIFICATE OF SERVICE

I, James P. Lamoureux, hereby certify that I have served a copy of the foregoing to the following counsel of record via U. S. First Class Mail, postage paid, this 27th day of November, 2000.



James P. Lamoureux